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PTO/SB/21 (6-99)

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## TRANSMITTAL FORM

to be used for all correspondence after initial filing)

		Application Number	10719,310
		Filing Date	November 21, 2003
		First Named Inventor	Brunetta et al.
		Group/Art Unit	1644
		Examiner Name	Huynh, Phoung N.
Total Number of Pages in This Submission		Attorney Docket Number	1644

### ENCLOSURES (check all that apply)

<input checked="" type="checkbox"/> Fee Transmittal Form <input checked="" type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment / Response <input type="checkbox"/> After Final <input type="checkbox"/> Version With Markings Showing Changes <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input checked="" type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/ Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53 <input type="checkbox"/> Copy of Notice	<input type="checkbox"/> Recordation Cover Sheet with Executed Assignment <input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input checked="" type="checkbox"/> Petition to consider IDS Statement 1.97(d) <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, by Assignee to Exclusion of Inventor Under 37 C.F.R. §3.71 With Revocation of Prior Powers <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Small Entity Statement <input type="checkbox"/> Request for Refund	<input type="checkbox"/> After Allowance Communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input type="checkbox"/> ADDITIONAL ENCLOSURE(S) (PLEASE IDENTIFY BELOW): <input checked="" type="checkbox"/> COPY OF SEARCH REPORT AND RETURN STAMPED POSTCARD
Remarks AUTHORIZATION TO CHARGE DEPOSIT ACCOUNT 08-1641 FOR ANY FEES DUE IN CONNECTION WITH THIS PAPER, REFERENCING ATTORNEY'S DOCKET NO. 39766-0205		

### SIGNATURE OF APPLICANT, ATTORNEY OR AGENT

Firm or Individual name	HELLER EHRMAN LLP		GINGER R. DREGER (Reg. No. 33,055)	
	275 Middlefield Road, Menlo Park, California 94025	Telephone: (650) 324-7000	Facsimile: (650) 324-0638	
Signature				
Date	January 23, 2007	Customer Number:	25213	

### CERTIFICATE OF EXPRESS MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. §1.10 on the date indicated below and addressed to: MAIL STOP xxxxx, Commissioner for Patents, PO Box 1450, Alexandria, Virginia 22313-1450, on this date: January 23, 2007.			
Express Mail Label EV 581 478 070 US			
Typed or printed name	Elena Torres		
Signature		Date	January 23, 2007

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop \_\_\_\_, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.



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# FEE TRANSMITTAL for FY 2006

Effective 10/01/2003. Patent fees are subject to annual revision.

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$)**130.00**

## Complete if Known

Application Number	10/719,310
Filing Date	November 21, 2003
First Named Inventor	Paul Brunetta
Examiner Name	Huynh, Phoung N.
Art Unit	1644
Attorney Docket No.	39766-0205

## METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit card ☐ Money Order ☐ Other ☐ None

☒ Deposit Account:

Deposit  
Account  
Number  
Deposit  
Account  
Name

08-1641

HELLER EHRMAN LLP (39766-0205)

The Director is authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☒ Credit any overpayments

☒ Charge any additional fee(s) or any underpayment of fee(s)

☐ Charge fee(s) indicated below, except for the filing fee  
to the above-identified deposit account.

## FEE CALCULATION

### 1. BASIC FILING FEE

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1001	300	2001	150	Utility filing fee	
1002	200	2002	100	Design filing fee	
1003	200	2003	100	Plant filing fee	
1004	300	2004	150	Reissue filing fee	
1005	200	2005	100	Provisional filing fee	
SUBTOTAL (1)				(\$)	

### 2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

		Extra Claims		Fee from below		Fee Paid
Total Claims	<input type="text"/>	-20** =	<input type="text"/>	X	<input type="text"/>	<input type="text"/>
Independent Claims	<input type="text"/>	-3** =	<input type="text"/>	X	<input type="text"/>	<input type="text"/>
Multiple Dependent					<input type="text"/>	<input type="text"/>

Large Entity		Small Entity		Fee Description
Fee Code	Fee (\$)	Fee Code	Fee (\$)	
1202	50	2202	25	Claims in excess of 20
1201	200	2201	100	Independent claims in excess of 3
1203	360	2203	180	Multiple dependent claim, if not paid
1204	200	2204	100	** Reissue independent claims over original patent
1205	50	2205	25	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2)

(\$)

\*\*or number previously paid, if greater; For Reissues, see above

## FEE CALCULATION (continued)

### 3. ADDITIONAL FEES

Large Entity Small Entity

Fee Code	Fee (\$)	Fee Code	Fee (\$)	Fee Description	Fee Paid
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet	
1053	130	1053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for ex parte reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
1251	120	2251	60	Extension for reply within first month	
1252	450	2252	225	Extension for reply within second month	
1253	1,020	2253	510	Extension for reply within third month	
1254	1,590	2254	795	Extension for reply within fourth month	
1255	2,160	2255	1,080	Extension for reply within fifth month	
1401	500	2401	250	Notice of Appeal	
1402	500	2402	250	Filing a brief in support of an appeal	
1403	1,000	2403	500	Request for oral hearing	
1451	1,510	1451	1,510	Petition to institute a public use proceeding	
1452	500	2452	250	Petition to revive - unavoidable	
1453	1,500	2453	750	Petition to revive - unintentional	
1501	1,400	2501	700	Utility issue fee (or reissue)	
1502	800	2502	400	Design issue fee	
1503	1,100	2503	550	Plant issue fee	
1460	130	1460	130	Petitions to the Commissioner	130
1807	50	1807	50	Processing fee under 37 CFR 1.17(q)	
1806	180	1806	180	Submission of Information Disclosure Stmt	
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	
1809	790	2809	395	Filing a submission after final rejection (37 CFR 1.129(a))	
1810	790	2810	395	For each additional invention to be examined (37 CFR 1.129(b))	
1801	790	2801	395	Request for Continued Examination (RCE)	
1802	900	1802	900	Request for expedited examination of a design application	

Other fee (specify)

\*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$)**130**

## SUBMITTED BY

Name (Print/Type)	GINGER R. DREGER	Registration No. (Attorney/Agent)	33, 055	Telephone	650-324-7000
Signature		Date	January 24, 2007		

**WARNING:** Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

This collection of information is required by 37 CFR 1.17 and 1.27. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Brunetta et al. Docket No.: 39766-0205  
Serial No.: 10/719,310 Group Art Unit: 1644  
Filing Date: 11/21/2003 Examiner: Huynh, Phoung N.  
For: THERAPY OF NON-MALIGNANT DISEASES OR DISEASES WITH ANTI-  
ERBB2 ANTIBODIES

PETITION TO CONSIDER INFORMATION DISCLOSURE STATEMENT  
UNDER 37 C.F.R. § 1.97(d)

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Applicant(s) hereby Petition the Commissioner to consider the references cited in the attached Information Disclosure Statement. The Information Disclosure Statement is being submitted after receipt of a Final Official Action or Notice of Allowance, but before payment of the issue fee, and is therefore accompanied by this Petition to Consider in accordance with the provisions of 37 C.F.R. § 1.97(d). Also, attached hereto is a Certification as required by this paragraph.

The Commissioner is authorized to charge any additional fees which may be required, including petition fees and extension of time fees, or credit any overpayment, to Deposit Account 08-1641 (Docket No. 39766-0205).

01/29/2007 WASFAW1 00000007 081641 10719310

01 FC:1464 130.00 DA

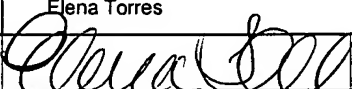
Date: January 24, 2007

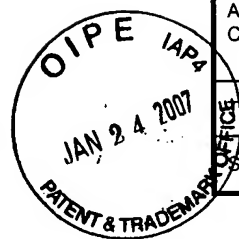
Respectfully submitted,

  
GINGER R. DREGER, Reg. No. 33,055

HELLER EHRMAN LLP  
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Express Mail Label: EV 581 478 070 US			
Typed or print name	Elena Torres		
Signature		Date	January 23, 2007



PATENT

Attorney Docket No.: 39766-0205

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

**PATENT APPLICATION**

Inventor(s): Brunetta et al.

Application No.: 10/719,310

Filed: November 21, 2003

Title: THERAPY OF NON-MALIGNANT DISEASES  
OR DISORDERS WITH ANTI-ERBB2 ANTIBODIES)

Art Unit: 1644

Examiner: Huynh, Phoung N.

**INFORMATION DISCLOSURE STATEMENT**

**UNDER 37 C.F.R. §1.97**

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Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Listed below or on an attached Form PTO-1449 is information known to applicant(s). A copy is provided of each foreign patent, each cited pending unpublished U.S. application, and all additional publications other than U.S. patents and U.S. patent application publications. 37 C.F.R. §§1.97-1.98.

Applicants respectfully request that the listed information be considered by the Examiner and be made of record in the above-identified application. If form PTO-1449 is enclosed, the Examiner is requested to initial and return it in accordance with MPEP §609. The references were cited in a search report for the corresponding PCT patent application. A copy of the search report is enclosed.

This statement is not intended to represent that a search has been made or that the information cited in the statement is, or is considered to be, material to patentability as defined in §1.56.



- ☐ This statement qualifies under 37 C.F.R. §1.97, subsection (b) because (check all that apply):
- ☐ (1) It is being filed within 3 months of the application filing date and is other than a continued prosecution application under § 1.53(d)  
-- OR --
- ☐ (2) It is being filed within 3 months of entry of a national stage  
-- OR --
- ☒ (3) It is being filed before the mail date of the first Office Action on the merits  
-- OR --
- ☐ (4) It is being filed before the mailing of a first Office Action after the filing of a request for continued examination under § 1.114.
- ☐ 37 C.F.R. §1.97(c). If this statement is being filed after the latest of: (1) three months beyond the filing date of a national application; (2) three months beyond the date of entry of the national stage as set forth in §1.491 in an international application; or (3) the mailing date of a first Office action on the merits, but before the mailing date of the earlier of a final office action under §1.113 or a notice of allowance under §1.311, then:
- ☐ a certification as specified in §1.97(e) is provided below; **or**
- ☐ a fee of \$180.00 as set forth in §1.17(p) is authorized below, enclosed, or included with the payment of other papers filed together with this statement.
- ☒ 37 C.F.R. §1.97(d). If this statement is being filed after the mailing date of the earlier of a final office action under §1.113 or a notice of allowance under §1.311, but before payment of the issue fee, then:
- A. a certification as specified in §1.97(e) is completed below; and
- B. a petition under 37 C.F.R. §1.97(d) requesting consideration of this statement is submitted herewith; **and**
- C. a fee of \$130.00 as set forth in §1.17(i)(1) is authorized below, enclosed, or included with the payment of other papers filed together with this statement.
- ☒ **Fee Authorization.** The Commissioner is hereby authorized to charge the above-referenced fees and charge any additional fees or credit any overpayment associated with this communication to Deposit Account No. 08-1641 (Docket No.: 39766-0205).

Respectfully submitted,

HELLER EHRMAN LLP

Dated: January 24, 2007

By: 

GINGER R. DREGER

Reg. No.: 33,055

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Menlo Park, CA 94025-3506  
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Facsimile: 1.650.324.0638  
Customer No.: 25213



**CERTIFICATION**

*(Attachment to Information Disclosure Statement)*

- ☒ 37 C.F.R. § 1.97(e)(1). **APPLICANT'S UNDERSIGNED ATTORNEY HEREBY CERTIFIES THAT** each item of information contained in this information disclosure statement was cited in a communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of the statement; or
- ☐ 37 C.F.R. § 1.97(e)(2). **APPLICANT'S UNDERSIGNED ATTORNEY HEREBY CERTIFIES THAT** no item of information contained in this information disclosure statement was cited in a communication from a foreign patent office in a counterpart foreign application or, to the knowledge of the person signing this certification after making reasonable inquiry, or was known to any individual designated in § 1.56(c) more than three months prior to the filing of this statement.

Respectfully submitted,

Dated: January 24, 2007

By: 

GINGER R. DREGER, Reg. No.: 33,055

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Customer No.: 25213

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1/23/07 1:45 PM (39766.0205)

<b>INFORMATION DISCLOSURE STATEMENT</b>  <b>PTO-1449</b>		ATTY. DOCKET NO. 39766-0205		SERIAL NO. 10/719,310			
		APPLICANT: Brunetta et al.					
		FILING DATE: 11/21/2003		GROUP: 1644			
<b>U.S. PATENT DOCUMENTS</b>							
EXAMINER'S INITIALS	PATENT NO.	DATE	NAME	CLASS	SUBCLASS	FILING DATE	
	2001/0027207	10/04/2001	Tang et al.				
<b>FOREIGN PATENT DOCUMENTS</b>							
EXAMINER'S INITIALS	PATENT NO.	DATE	COUNTRY	CLASS	SUBCLASS	TRANSLATION	
						YES	NO
						<input type="checkbox"/>	<input type="checkbox"/>
						<input type="checkbox"/>	<input type="checkbox"/>
<b>OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, Etc.)</b>							
EXAMINER			DATE CONSIDERED				

EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.